



General Assembly

January Session, 2019

Raised Bill No. 7142

LCO No. 3735



Referred to Committee on TRANSPORTATION

Introduced by:
(TRA)

AN ACT CONCERNING THE LICENSING OF NEW AND USED CAR DEALERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 14-52b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) In the event a manufacturer licensed in accordance with the
4 provisions of section 14-67a, as amended by this act, cancels,
5 terminates or fails to renew any franchise, as defined in section 42-
6 133r, as amended by this act, with a new car dealer, as defined in
7 section 14-51, as amended by this act, the Commissioner of Motor
8 Vehicles, upon receipt of written notice of such action by the
9 manufacturer, shall, unless the dealer holds one or more additional
10 franchises, demand that such new car dealer surrender such license to
11 the commissioner. If such action is contested by such dealer in
12 accordance with the provisions of sections 42-133r to 42-133ee,
13 inclusive, as amended by this act, the commissioner shall not demand
14 surrender of such license, and no replacement motor vehicle dealer
15 shall be named for the dealer's point or location, except in accordance

16 with subdivision (10) of section 42-133cc, until the proceedings to
17 contest such action by the manufacturer are finally determined after all
18 means of administrative, judicial and appellate review have been
19 exhausted and the decision is adverse to the dealer.

20 (b) Except as provided in subsections (c) [and (d)] to (e), inclusive, of
21 this section, no person, firm or corporation licensed as a manufacturer
22 in accordance with the provisions of section 14-67a, as amended by
23 this act, may be the holder of a new or used car dealer's license issued
24 in accordance with the provisions of section 14-52, except a
25 manufacturer may operate as a dealer on a temporary basis in
26 accordance with the provisions of subdivision (8) of section 42-133cc.
27 The provisions of this subsection shall apply to any firm or corporation
28 that is owned or controlled by a manufacturer, as determined by the
29 commissioner. Any applicant for a new or used car dealer license that
30 is denied a license under the provisions of this subsection shall be
31 entitled to a hearing in accordance with the provisions of chapter 54.

32 (c) [Notwithstanding the provisions of subsection (b) of this section,
33 the] The commissioner may issue a used car dealer's license to a
34 person, firm or corporation, owned or controlled by a manufacturer,
35 engaged primarily in the business of rental of motor vehicles and
36 industrial and construction equipment, provided: (1) Motor vehicles
37 offered for sale by any such person, firm or corporation are limited to
38 motor vehicles that have been previously used exclusively and
39 regularly in the conduct of the business or motor vehicles traded in by
40 purchasers of such previously used motor vehicles, (2) any warranty
41 repairs performed by such person, firm or corporation are limited to
42 motor vehicles that such person, firm or corporation owns, has
43 previously owned, or has taken in trade, and (3) any retail financing
44 provided or arranged by such person, firm or corporation is limited to
45 vehicles sold by such person, firm or corporation.

46 (d) The commissioner may extend the period of a license issued to a
47 manufacturer to operate a dealership on a temporary basis, in
48 accordance with the provisions of subsection (b) of this section and

49 subdivision (8) of section 42-133cc, for not more than one additional
50 year, up to a maximum period of two years, if the commissioner is
51 satisfied that such manufacturer has made and is continuing to make
52 bona fide efforts to sell and transfer the dealership to a person, firm or
53 corporation that is qualified to hold a new or used dealer's license.

54 (e) (1) For the purposes of this subsection, "manufacturer" means a
55 person, firm or corporation licensed as a manufacturer in accordance
56 with the provisions of section 14-67a, as amended by this act, and any
57 subsidiary, affiliate or entity owned or controlled by such
58 manufacturer.

59 (2) The commissioner may issue a new or used car dealer's license to
60 a manufacturer, provided such manufacturer: (A) Does not have a
61 franchise agreement with any new car dealer in the state; (B)
62 manufactures only electric vehicles; (C) was licensed as a manufacturer
63 in accordance with the provisions of section 14-67a, as amended by
64 this act, on or before January 1, 2019; (D) sells at retail only motor
65 vehicles manufactured by such manufacturer; (E) does not hold a
66 controlling interest in another manufacturer, or a subsidiary, affiliate
67 or entity owned or controlled by such other manufacturer, that is
68 licensed as a dealer under this subsection; and (F) is not owned or
69 controlled by another manufacturer, or a subsidiary, affiliate or entity
70 owned or controlled by such other manufacturer, that is licensed as a
71 dealer under this subsection.

72 Sec. 2. Subdivisions (1) and (2) of subsection (a) of section 14-51 of
73 the general statutes are repealed and the following is substituted in
74 lieu thereof (*Effective July 1, 2019*):

75 (1) "New car dealer" includes (A) any person, firm or corporation
76 engaged in the business of merchandising new motor vehicles under a
77 manufacturer's or importer's contract for each such make of vehicle,
78 [who may] and (B) any person, firm or corporation licensed as a
79 manufacturer, as defined in subsection (e) of section 14-52b, as
80 amended by this act, that is engaged in the business of merchandising

81 new motor vehicles and licensed as a new car dealer as provided in
82 said subsection. Such person, firm or corporation may, incidental to
83 such business, sell used motor vehicles and repair motor vehicles, [.
84 Such person] and shall be qualified to conduct such business in
85 accordance with the requirements of section 14-52a.

86 (2) "Used car dealer" includes (A) any person, firm or corporation
87 engaged in the business of merchandising motor vehicles other than
88 new, [who] and (B) any person, firm or corporation licensed as a
89 manufacturer, as defined in subsection (e) of section 14-52b, as
90 amended by this act, that is engaged in the business of merchandising
91 motor vehicles other than new and licensed as a used car dealer as
92 provided in said subsection. Such person, firm or corporation may,
93 incidental to such business, repair motor vehicles. A used car dealer
94 does not include any person, firm or corporation engaged in the
95 business of leasing or renting motor vehicles that offers for sale or sells
96 used motor vehicles incidental to its primary business, if [(A)] such
97 person, firm or corporation is licensed in accordance with the
98 provisions of section 14-15, and [(B)] the motor vehicles that it offers
99 for sale were formerly the subject of one or more lease agreements to
100 which it was a party and the actual or prospective purchaser is the
101 original lessee pursuant to a purchase option specified in a lease
102 agreement. Such person, firm or corporation shall be qualified to
103 conduct such business in accordance with the requirements of section
104 14-52a.

105 Sec. 3. Section 14-67a of the general statutes is repealed and the
106 following is substituted in lieu thereof (*Effective July 1, 2019*):

107 (a) No person, firm or corporation shall engage in the business of
108 manufacturing motor vehicles for sale in this state without having
109 been issued a manufacturer's license, which license shall expire
110 biennially on the last day of June. Application for such license or
111 renewal thereof may be made to the Commissioner of Motor Vehicles
112 in such form as the commissioner shall require. The commissioner may
113 require with such application all of the following, which [he] the

114 commissioner may consider in determining the fitness of such
115 applicant to engage in business as a manufacturer of motor vehicles for
116 sale in this state:

117 (1) Information relating to the applicant's solvency and [his]
118 financial standing;

119 (2) A certified copy of any warranty made by the manufacturer or
120 any other party in whom title to such motor vehicle may have been
121 vested prior to possession of such motor vehicle being transferred to a
122 person licensed under the provisions of this section;

123 (3) A copy of the applicant's standard franchise agreement and all
124 supplements thereto, together with a list of the applicant's authorized
125 dealers or distributors in this state and their [address] addresses. Such
126 applicant shall notify the commissioner immediately of the
127 appointment of any additional dealers or distributors or any revisions
128 of or additions to the basic franchise agreement on file with [him] the
129 commissioner, or of any individual dealer or distributor supplements
130 to such agreement. The provisions of this subdivision shall not apply
131 to any manufacturer licensed as a new or used car dealer pursuant to
132 subsection (e) of section 14-52b, as amended by this act;

133 (4) A certified copy of the delivery and preparation obligations of
134 the applicant's new car dealers, which obligations shall constitute such
135 new car dealers' only responsibility for product liability between the
136 dealer and the manufacturer;

137 (5) An affidavit stating the rates such applicant pays or agrees to
138 pay any authorized new car dealer for parts and labor used and
139 expended by such authorized new car dealer for the manufacturer
140 under delivery and preparation obligations under the new car
141 warranty;

142 (6) A biennial license fee of two thousand three hundred dollars,
143 which fee shall not be subject to refund or proration; and

144 (7) Any other pertinent matter commensurate with the safeguarding
145 of the public interest.

146 (b) An application for renewal of such license filed with the
147 commissioner after the expiration date of such license shall be
148 accompanied by a late fee of two hundred fifty dollars. The
149 commissioner shall not renew any license under this section which has
150 expired for more than forty-five days.

151 Sec. 4. Section 42-133r of the general statutes is repealed and the
152 following is substituted in lieu thereof (*Effective July 1, 2019*):

153 As used in [sections 42-133r] this section and sections 42-133s to 42-
154 133ee, inclusive, unless the context indicates a different meaning:

155 (1) "Manufacturer" means any person who manufactures or
156 assembles new motor vehicles, or imports motor vehicles for
157 distribution to dealers or through distributors, or factory branches, but
158 does not include any manufacturer licensed as a new or used car
159 dealer pursuant to subsection (e) of section 14-52b, as amended by this
160 act.

161 (2) "Distributor" means any person who offers for sale, sells or
162 distributes any new motor vehicle to dealers or who maintains factory
163 representatives or who controls any person, firm, association, joint
164 venture corporation or trust, who offers for sale, sells or distributes
165 any new motor vehicle to dealers.

166 (3) "Factory branch" means a branch office maintained by a
167 manufacturer for the purpose of selling, or offering for sale, motor
168 vehicles to a distributor or dealer, or for directing or supervising
169 factory or distributor representatives.

170 (4) "Owner" means any person holding an ownership interest in a
171 business entity operating as a dealer or under a franchise as defined in
172 this section either as a corporation, partnership or sole proprietorship.
173 To the extent that the rights of any owner under [sections 42-133r] this

174 section and sections 42-133s to 42-133ee, inclusive, conflict with the
175 rights of any other owner, such rights shall accrue in priority order
176 based on the percentage of ownership interest held by each owner
177 with the owner having the greatest ownership interest having first
178 priority and succeeding priority accruing to other owners in the
179 descending order of their percentage of ownership interest.

180 (5) "Dealership facilities" means real estate, buildings, fixtures and
181 improvements which are used in the course of business under a
182 franchise by a new motor vehicle dealer.

183 (6) "Dealer" means any person engaged in the business of selling,
184 offering to sell, soliciting or advertising the sale of new motor vehicles
185 and who holds a valid sales and service agreement, franchise or
186 contract, granted by a manufacturer or distributor for the retail sale of
187 the manufacturer's or distributor's new motor vehicles.

188 (7) "Motor vehicle" means a self-propelled vehicle intended
189 primarily for use and operation on the public highways, other than a
190 farm tractor or other machinery or tools used in the production,
191 harvesting and care of farm products.

192 (8) "New motor vehicle" means a motor vehicle which has been sold
193 to a new motor vehicle dealer and which has not been used for other
194 than demonstration purposes and on which the original title has not
195 been issued from the new motor vehicle dealer.

196 (9) "Established place of business" means a permanent, commercial
197 building easily accessible and open to the public at reasonable times
198 and at which the business of a new motor vehicle dealer, including the
199 display and repair of vehicles, may be lawfully carried on.

200 (10) "Franchise" means a written agreement or contract between a
201 manufacturer or distributor and a dealer which purports to fix the
202 legal rights and liabilities of the parties to such agreement or contract,
203 and pursuant to which the dealer purchases and resells the franchise
204 product or leases or rents the dealership premises.

205 (11) "Good faith" means honesty in fact and the observance of
206 reasonable commercial standards of fair dealing in the trade.

207 (12) "Designated family member" means the spouse, child,
208 grandchild, parent, brother or sister of an owner who, in the case of the
209 owner's death, is entitled to inherit the ownership interest in the dealer
210 under the terms of the owner's will, or who has been nominated in any
211 other written instrument, or who, in the case of an incapacitated owner
212 of a dealer, has been appointed by a court as the legal representative of
213 the dealer's property.

214 (13) "Person" means a natural person, partnership, corporation,
215 limited liability company, association, trust, estate or any other legal
216 entity.

217 (14) "Relevant market area" means the area within a radius of
218 fourteen miles around an existing dealer or the area of responsibility
219 defined in a franchise, whichever is greater.

220 (15) "Commissioner" means the Commissioner of Motor Vehicles.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2019</i>	14-52b
Sec. 2	<i>July 1, 2019</i>	14-51(a)(1) and (2)
Sec. 3	<i>July 1, 2019</i>	14-67a
Sec. 4	<i>July 1, 2019</i>	42-133r

Statement of Purpose:

To authorize the Commissioner of Motor Vehicles to issue a new or used car dealer's license to an electric vehicle manufacturer.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]